

Minutes
URBAN COUNTY PLANNING COMMISSION
ZONING ITEMS PUBLIC HEARING

August 26, 2010

- I. **CALL TO ORDER** – The meeting was called to order at 1:34 p.m. in the Council Chamber, 2nd Floor LFUCG Government Center, 200 East Main Street, Lexington, Kentucky.

Planning Commission members present: Carolyn Richardson, Chair; Mike Cravens; Patrick Brewer; Ed Holmes; Mike Owens; William Wilson; Marie Copeland, Derek Paulsen, Lynn Roche-Phillips and Eunice Beatty.

Planning staff members present: Chris King, Director; Bill Sallee; Barbara Rackers; Traci Wade; Tom Martin; Jimmy Emmons and Denise Bullock. Other staff members present were Rochelle Boland, Department of Law; Hillard Newman Division of Engineering; and Captain Charles Bowen, Division of Fire & Emergency.

- II. **APPROVAL OF MINUTES** – The Chair noted that there were no prior Planning Commission minutes to be considered at this time

- III. **POSTPONEMENTS AND WITHDRAWALS** – Requests for postponement and withdrawal will be considered at this time.

I. **MAP PROPERTY MANAGEMENT ZONING MAP AMENDMENT & WALNUT HILL SUBDIVISION ZONING DEVELOPMENT PLAN**

- a. **MAR 2010-3: MAP PROPERTY MANAGEMENT (8/26/10)*** - petition for a zone map amendment from a Single Family Residential (R-1B) zone to a Highway Service Business (B-3) zone with conditions, for 0.509 net (0.778 gross) acre, for property located at 2000 Liberty Road.

LAND USE PLAN AND PROPOSED USE

The 2007 Comprehensive Plan (Sector 2) recommends Medium Density Residential (MD) future land use for the subject property. The petitioner proposes constructing a five-bay car washing establishment and associated off-street parking for the Lexus dealership across Liberty Road.

The Zoning Committee Recommended: **Referral to the full Commission.**

The Staff Recommended: **Disapproval**, for the following reasons:

1. The requested rezoning to a Highway Service Business (B-3) zone, even with conditional zoning restrictions, cannot be found to be in agreement with the 2007 Comprehensive Plan, which recommends Medium Density Residential (MD) land use for the subject property. Medium Density use is defined as 5-10 dwelling units per net acre.
2. The B-3 zone is not appropriate for the subject property for the following reasons:
 - a. Liberty Road is a two-lane minor arterial roadway at this location that begins transitioning to a five-lane cross section at the intersection of Liberty Road and New Circle Road. The left-hand turning movement onto Downs Avenue, and the right-hand turn with a quick left turn to exit the site and return to the Lexus dealership as proposed by the applicant, in combination with existing stacking problems at the intersection to the east, would exacerbate an existing traffic issue.
 - b. Several single family residences still exist along Downs Avenue and to the west along Liberty Road. These adjacent and nearby residentially zoned properties could be significantly impacted by expanding the commercial zoning in this area, which would permit the proposed car washing establishment.
 - c. In this instance, the existing water storage tanks to the east, as well as the mature landscape buffer along the property line, create an appropriate and well-established transition from the business uses to the residential uses along Liberty Road.
3. There have been no significant unanticipated changes of a physical, social or economic nature within the immediate area since the Comprehensive Plan was adopted in early 2007 that would support B-3 zoning for the subject property.

- b. **ZDP 2010-35: WALNUT HILL SUBDIVISION (8/26/10)***- located at 2000 Liberty Road. **(Vision Engineering)**

Note: The Planning Commission postponed this plan at their July 22, 2010, meeting.

The Subdivision Committee Recommended: **Approval**, subject to the following requirements:

1. Provided the Urban County Council rezones the property B-3; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
4. Building Inspection's approval of landscaping and landscape buffers.
5. Urban Forester's approval of tree inventory information.
6. Denote: No building permits shall be issued unless and until a final development plan is approved by the Planning Commission.
7. Denote final record plat names for adjoining properties.
8. Denote construction access location.
9. Denote proposed height of building.
10. Denote storm water detention area and/or controls.

* - Denotes date by which Commission must either approve or disapprove request.

11. Denote existing and proposed utility easements on plan.
12. Discuss access and improvements to Liberty Road.
13. Discuss employee parking and on-site parking for vehicles to be serviced.

Petitioner Representation: Bruce Simpson, attorney, was present representing the applicant. He requested postponement of MAR 2010-3 to the September 23, 2010, Planning Commission meeting.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request for postponement. There was no response.

Action: A motion was made by Mr. Cravens, seconded by Mr. Owens, and carried 10-0 to postpone MAR 2010-3 to the September 23, 2010, Planning Commission meeting.

2. SAYRE CHRISTIAN VILLAGE ZONING MAP AMENDMENT & SAYRE CHRISTIAN VILLAGE PHASE 1, 2, 3, 4 & 7 (BELLEAU WOODS SUBDIVISION) (AMD.) ZONING DEVELOPMENT PLAN

- a. MARC 2010-5: SAYRE CHRISTIAN VILLAGE (9/30/10)* – petition for a zone map amendment from a Single Family Residential (R-1C) zone to a High Density Apartment (R-4) zone, for 1.16 net (1.65 gross) acres, for property located at 3773 - 3789 Belleau Wood Drive. A conditional use permit application has also been filed in conjunction with this zone change request.

LAND USE PLAN AND PROPOSED USE

The 2007 Comprehensive Plan (Sector 10) recommends Low Density Residential (LD) future land use for the five subject properties, which is defined as 0-5 dwelling units per net acre. The petitioner proposes the rezoning in order to make an addition to the adjacent nursing home, incorporate a prominent front entrance and lobby for the structure, and provide a circular entrance drive with additional off-street parking.

The Zoning Committee made no recommendation due to lack of quorum.

The Staff Recommends: **Postponement**, for the following reason:

1. The staff is concerned about the possible negative impacts the rezoning and visual changes to the property may have on the neighborhood. The petitioner should consider methods to provide a land use or landscape buffer that could mitigate such concerns. The petitioner should also consider design options to insure compatibility with the nearby neighborhood.

- b. REQUESTED CONDITIONAL USE

Nursing Home (Expansion)

The Staff Recommends: **Postponement**, for the following reasons:

- a. The manner in which the expanded facilities for this senior living community will be integrated into the existing facilities and will relate positively to the surrounding neighborhood requires further evaluation. Such an evaluation may result in design changes intended to minimize the potential for the expanded facilities to adversely affect the surrounding properties.
 - b. With the demolition of five single family residences, there is a critical need for a comparable buffer to be provided along the north side of Belleau Wood Drive between Greenfield Drive and Camelot Drive. This may require that the design of the entrance feature and associated parking lot be reconfigured and possibly reduced in scope, in conjunction with additional landscaping that may exceed the minimum requirements of the Zoning Ordinance.
 - c. The currently proposed design will result in more isolation, rather than improved connectivity, between the off-street parking areas at different building locations. The extent to which this is a desired or unwelcome outcome requires further evaluation, and may lead to additional design changes.
- c. ZDP 2010-42: SAYRE CHRISTIAN VILLAGE (9/30/10)* - located at 3816 Camelot Drive; 560 Greenfield and 3773-3789 Belleau Wood Drive.
(Banks Engineering)

Note: The purpose of this amendment is to add off-street parking and buildable area to Phases 1 - 4.

The Subdivision Committee Recommended: **Postponement**. There are concerns with the building encroaching over existing easements, the proposed access, the landscape screening and the parking proposed along Belleau Wood Drive.

Should this plan be approved, the following requirements should be considered:

1. Provided the Urban County Council rezones the property R-4; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
4. Building Inspection's approval of landscaping and landscape buffers.
5. Urban Forester's approval of tree inventory map.
6. Division of Environmental Quality's approval of environmentally sensitive areas.

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7. Denote: No building permits shall be issued unless and until a final development plan is approved by the Planning Commission.
8. Addition and labeling of all easements from record plats.
9. Label and denote height of all proposed and existing canopies.
10. Label building line in area of zone change.
11. Revise note #16 to denote that GeoTech Report is on file in the Division of Building Inspection.
12. Clarify that the wooded areas will remain as tree protection area(s) (TPA).
13. Discuss status of plan (preliminary vs. final).
14. Discuss building encroachment over existing easements.
15. Discuss proposed access to Belleau Wood Drive.
16. Discuss landscape screening and parking along Belleau Wood Drive.

Petitioner Representation: Nick Nicholson, attorney, was present representing the applicant. He requested postponement of MARC 2010-5 to the September 23, 2010, Planning Commission meeting.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request for postponement. There was no response.

Action: A motion was made by Mr. Owens, seconded by Ms. Roche-Phillips, and carried 10-0 to postpone MARC 2010-5 to the September 23, 2010, Planning Commission meeting.

IV. LAND SUBDIVISION ITEMS - The Subdivision Committee met on Thursday, August 5, 2010, at 8:30 a.m. The meeting was attended by Commission members: Mike Cravens, Mike Owens, Carolyn Richardson, Eunice Beatty and Derek Paulsen. Committee members in attendance were: Hillard Newman, Division of Engineering; and Jeff Neal, Division of Traffic Engineering. Staff members in attendance were: Bill Sallee, Tom Martin, Cheryl Gallt, Chris Taylor, Denise Bullock, Traci Wade, Jim Marx and Barbara Rackers, as well as Captain Charles Bowen and Firefighter Allen Case, Division of Fire & Emergency Services; and Bob Carpenter and Stephen Harrod, Division of Building Inspection. The Committee made recommendations on plans as noted.

General Notes

The following automatically apply to all plans listed on this agenda unless a waiver of any specific section is granted by the Planning Commission.

1. All preliminary and final subdivision plans are required to conform to the provisions of Article 5 of the Land Subdivision Regulations.
2. All development plans are required to conform to the provisions of Article 21 of the Zoning Ordinance.

V. ZONING ITEMS - The Zoning Committee met on Thursday, August 5, 2010, at 1:30 p.m. in the Division of Planning Office. The meeting was attended by Commission members Ed Holmes and Carolyn Richardson. Due to a lack of a quorum, the Zoning Committee made no recommendations.

A. ABBREVIATED PUBLIC HEARINGS ON ZONE MAP AMENDMENTS AND RELATED PLANS

The staff will call for objectors to determine which petitions are eligible for abbreviated hearings.

Abbreviated public hearings will be held on petitions meeting the following criteria:

- The staff has recommended approval of the zone change petition and related plan(s)
- The petitioner concurs with the staff recommendations
- Petitioner waives oral presentation, but may submit written evidence for the record
- There are no objections to the petition

B. FULL PUBLIC HEARINGS ON ZONE MAP AMENDMENTS AND RELATED PLANS – Following abbreviated hearings, the remaining petitions will be considered.

The procedure for these hearings is as follows:

- Staff Reports (30 minute maximum)
- Petitioner's report(s) (30 minute maximum)
- Citizen Comments
 - (a) proponents (10 minute maximum OR 3 minutes each)
 - (b) objectors (30 minute maximum) (3 minutes each)
- Rebuttal & Closing Statements
 - (a) petitioner's comments (5 minute maximum)
 - (b) citizen objectors (5 minute maximum)
 - (c) staff comments (5 minute maximum)
- Hearing closed and Commission votes on zone change petition and related plan(s)

Note: Requests for additional time, stating the basis for the request, must be submitted to the staff no later than two days prior to the hearing. The Chair will announce its decision at the outset of the hearing.

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1. **LEXINGTON HOME OWNERSHIP COMMISSION, INC., ZONING MAP AMENDMENT & MIRIAM E. AKIN PROPERTY (LEXINGTON HOME OWNERSHIP COMMISSION, INC.) ZONING DEVELOPMENT PLAN**

- a. MARV 2010-6: LEXINGTON HOME OWNERSHIP COMMISSION, INC. (9/30/10)* – petition for a zone map amendment from a Neighborhood Business (B-1) zone to a High Rise Apartment (R-5) zone, for 0.166 net (0.285 gross) acre, for property located at 163 - 167 Jefferson Street. Dimensional variances are also being requested at this location.

LAND USE PLAN AND PROPOSED USE

The 2007 Comprehensive Plan (Sector 1) recommends Downtown Master Plan future land use for the subject properties. The petitioner proposes to rezone the properties to the R-5 zone in order to renovate the existing residential structure and construct a new structure, with a total of five dwelling units, for a density of 30.12 dwelling units per net acre.

The Zoning Committee made no recommendation due to lack of quorum.

The Staff Recommends: **Approval of R-5 zoning for 165-167 Jefferson Street and R-3 zoning for 163 Jefferson Street**, for the following reasons:

1. The existing Neighborhood Business (B-1) zone is inappropriate for the subject properties, for the following reasons:
 - a. The historical use of both of the properties has been primarily residential in nature.
 - b. The properties have been constrained by a "non-conforming" status for more than forty years, since the adoption of the 1969 Zoning Atlas.
 - c. The potential neighborhood business use would be problematic given the lack of off-street parking that could be provided on the subject property without accessing residential parking through the Ballard-Griffith Towers parking lot.
2. The requested High Rise Apartment (R-5) zone is appropriate for 165-167 Jefferson Street, for the following reasons:
 - a. The proposed R-5 zone is compatible with the Ballard-Griffith Towers to the rear and the R-4 zoning across Tower Plaza to the east. In addition, the existing structure to the west of the site at 159-161 Jefferson has been converted to a multi-family residential use that is very similar to the density of the proposed use of the subject properties.
 - b. The R-5 zone does permit a limited amount of commercial use as a conditional use considered by the Board of Adjustment, which could support the *Masterplan's* recommendation for neighborhood business use in the area.
3. Planned Neighborhood Residential (R-3) zoning is appropriate for 163 Jefferson Street, for the following reasons:
 - a. The R-3 zone permits the requested single-family residential use, and has special provisions to encourage infill and redevelopment on small lots inside the defined Infill and Redevelopment Area.
 - b. The R-3 zone for this property would allow a conforming single-family residential use, while the alternative option of withdrawing this property from the application would require the petitioner to seek Board of Adjustment approval to change from one non-conforming use to another.
4. Residential zoning for the subject properties will permit higher residential density along the Jefferson Street pedestrian corridor. This supports the principles of the *Downtown Lexington Masterplan*, specifically by increasing residential density; utilizing vacant land; providing a variety of housing types and price points; and maintaining the mixed land use, development scale, and building streetscape, which will improve the primary pedestrian corridor along Jefferson Street.
5. This recommendation is made subject to approval and certification of ZDP 2010-43: Miriam E. Akin Property (Lexington Home Ownership Commission, Inc.), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

b. **REQUESTED VARIANCES**

1. Front Yard Variance from 20 feet to 9 feet
2. Side Yard Variance from 10 feet to 0.5 feet
3. Height Variance of Height/Yard ratio to allow 30 feet maximum
4. Side Street Side Yard variance from 20 feet to 5 feet
5. Required Off-Street Parking Variance from 9 to 6 spaces
6. Landscape Variance of Property Perimeter Screening from 15 feet to 0 feet

The Staff Recommended: **Approval of the requested Yard, Height, Parking, and Landscaping variances**, for the following reasons:

1. Granting the requested variances should not adversely affect the public health, safety or welfare, nor alter the character of the general vicinity, as one of the two buildings involved will be rehabilitated and reduced in size. The other will observe similar setbacks to those in the area.
2. Approval of these variances will not result in an unreasonable circumvention of the Zoning Ordinance. The purpose of the ordinances related to infill and redevelopment are to encourage rehabilitation and compatible new development. In this case, the rezoning with the requested variances is the best way to achieve this goal for the proposed project.
3. The special circumstance that applies to the subject properties is the extremely small size of these existing infill lots.
4. Strict application of the requirements of the Zoning Ordinance would create an unnecessary hardship to the applicant. It would make the existing structure non-conforming, thereby making its rehabilitation more restrictive. It would also cause the new building on the vacant lot to be out of character with the surrounding neighborhood, which would contradict the applicant's desire to build a compatible structure.

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5. The circumstances surrounding this request are not the result of actions taken by the applicant since the adoption of the Zoning Ordinance. In fact, this area of town was developed long before the city's first Zoning Ordinance was enacted, while the subject site is constrained by the existing building, the relatively small size of the lots, and the existence of two front yards.

This recommendation of approval is made subject to the following conditions:

- a. Provided the Urban County Council rezones the property R-5; otherwise, any Commission action of approval of this variance is null and void.
 - b. Should the property be rezoned, it shall be redeveloped in accordance with the approved Zoning Development Plan, or as amended by a future Development Plan approved by the Commission, or as a Minor Amendment permitted under Article 21-7 of the Zoning Ordinance.
 - c. A note shall be placed on the Zoning Development Plan indicating the variances that the Planning Commission has approved for this property (under Article 6-4(c) of the Zoning Ordinance).
 - d. Denote: All necessary permits shall be obtained from the Division of Building Inspection prior to occupancy.
 - e. Denote: Building height shall be restricted to 30 feet.
 - f. Denote: The minimum off-street parking requirement shall be six spaces.
 - g. Denote: The existing wall on the southwest property line shall remain, or a replacement wall of similar size shall be provided to create a solid screen along that boundary.
 - h. Denote: A new solid screen shall be installed on the southwest property line between the existing house and the existing wall to create a solid screen. Should the house be removed for any reason, the Planning Commission shall review an appropriate screen along the southwest property line as a part of the development plan approval process.
- c. ZDP 2010-43: MIRIAM E. AKIN PROPERTY (LEXINGTON HOME OWNERSHIP COMMISSION, INC.) (9/30/10)*- located at 163 & 165 – 167 Jefferson Street.
(Sherman/Carter/Barnhart)

The Subdivision Committee Recommended: Postponement. There were questions regarding the plan's compliance with the R-5 zoning regulations regarding lot coverage and building setbacks.

Should this plan be approved, the following requirements should be considered:

1. Provided the Urban County Council rezones the property R-5; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
4. Building Inspection's approval of landscaping and landscape buffers.
5. Urban Forester's approval of tree inventory map.
6. Denote: No building permits shall be issued unless and until a final development plan is approved by the Planning Commission.
7. Delete note #11.
8. Denote floor area ratio in site statistics for each lot.
9. Denote Final Record Plat designation.
10. Denote the shared lot line information per the Final Record Plat.
11. Addition of sidewalk from parking area to the structures and from structures to Jefferson Street.
12. Correct plan title.
13. Provided the Planning Commission grants the dimensional variances requested.
14. Discuss timing of alteration to lot lines to meet lot coverage limitation for each lot.

Request to Amend Application – Darby Turner, attorney, was present on behalf of the petitioner. He said that the original application reflected a zone change request from a Neighborhood Business (B-1) zone to a High Rise Apartment (R-5) zone for properties located at 163, 165 and 167 Jefferson Street. Since that time, they have determined that 163 Jefferson Street needs to be amended due to a decrease in density; therefore, they are now requesting to amend that portion of the request from a Neighborhood Business (B-1) zone to a Planned Neighborhood Residential (R-3) zone for that one lot.

Planning Commission Questions – Ms. Roche-Phillips asked if the amended portion has been properly advertised. Mr. Sallee said that the original request (to R-5) had been properly advertised; however, since the amended portion is to a "lesser" zone there is no need for it to be advertised again. He then said that, had the amended portion been a higher request (as in a more intense zoning category), then this request would need to be postponed and re-advertised.

Action - A motion was made by Mr. Holmes, seconded by Mr. Cravens, and carried 10-0 to amend MARV 2010-6, as requested.

Zoning Presentation - Ms. Wade presented the staff report on the amended map amendment request, and stated that the petitioner has proposed a zone change from a Neighborhood Business (B-1) zone to a High Rise Apartment (R-5) zone, as well as a Planned Neighborhood Residential (R-3) zone for properties located at 163, 165 and 167 Jefferson Street. She briefly oriented the Commission to the location of the subject property, and to the surrounding street system. She said that

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these properties are located on the north side of Jefferson Street, between W. Short Street and W. Second Street. She then said that although this block of Jefferson Street is mostly zoned B-1, there is a mixture of uses in the general area, to include residential and commercial uses, as well as an elementary school across from the subject property. She said that the Ballard-Griffith Towers (two high-rise apartment buildings) are to the rear of the subject property and are zoned R-5. In the general vicinity there are two areas zoned for High Density Apartment (R-4) uses. Ms. Wade said that the subject property is not part of either of the two local historic districts (Western Suburb Historic District and the Northside Historic District), but it is part of the Northside Residential District, listed on the National Registry, and should be treated as a contributing property to the overall district.

Ms. Wade displayed for the Commission an aerial photograph of the subject property, as well as photographs of the site. She noted that although 163 Jefferson Street has an existing structure, that structure is vacant at this time. She then noted that 165 and 167 Jefferson Street previously had a building on site, that has since been demolished, leaving the land vacant. She said that the applicant is proposing to renovate the existing structure at 163 Jefferson Street to a single family residence and build a new four-unit structure at 165 and 167 Jefferson Street. The total density for the subject property will be 30.12 units per net acre, which falls within the very high density residential land use category of the 2007 Comprehensive Plan. Ms. Wade further noted that Tower Plaza runs beside the subject property and leads to the entrance of Ballard-Griffith Towers to the rear. She said that, along with this request, the applicant is requesting several variances for these properties, one of which is a side yard variance. Ms. Wade stated that there are a variety of uses along Jefferson Street, to include restaurants; a gallery; a wine shop; a weekly newspaper office, and a new mixed-use structure.

Ms. Wade said that the 2007 Comprehensive Plan recommends using the Downtown Master Plan (DTMP) land use for the subject property. The Plan states that the Downtown Masterplan should be consulted for zone change applications and redevelopment decisions. It also states that if the Masterplan is not implemented, the Planning Commission should consider the land use recommendations noted in the 2001 Comprehensive Plan. She said that the 2001 Comprehensive Plan recommends medium density residential, which is a reflection of the existing uses at that time.

Ms. Wade stated that the Downtown Masterplan indicates that the subject property is located in the Western Suburb Historic District; and at this time, there is no information that would lead the staff to make a declaratory statement for what the intent should be. She said that the Downtown Masterplan does identify 15 principles, which are incorporated into the 2007 Comprehensive Plan, and those include the following:

- Recommendation 4.2: Increase Residential Density to accommodate a diverse population through varied housing types and price points;
- Recommendation 6: Maximize Density in Vacant Sites; and
- Recommendation 8: Invest in a Pedestrian Network, noting that Jefferson Street is one of the primary pedestrian corridors for the downtown area.

Ms. Wade said that the recommendations listed in the 2001 Comprehensive Plan are different from the recommendations in the Downtown Masterplan. She said that the 2001 Comprehensive Plan recommends residential land use, whereas the Downtown Masterplan recommends more of a commercial land use. Since these recommendations are at odds with each other, the staff suggests that the Commission consider whether or not the existing B-1 zoning and the proposed R-3 and R-5 zoning are appropriate for these properties. Ms. Wade said that, in researching the existing B-1 zone, the staff discovered that with the adoption of the 1969 Zoning Atlas, the zoning for these properties was changed from a B-4 zone to a B-1 zone. With that change, these properties became non-conforming for more than forty years. She then said that the potential for a redevelopment in the existing Neighborhood Business (B-1) zone at this location could be problematic given the lack of off-street parking, as well as pose a problem with accessing parking through the Ballard-Griffin Towers parking lot. With that being said, the staff can conclude that the existing Neighborhood Business (B-1) zone is inappropriate for the subject properties, for the following reasons:

- a. The historical use of both of the properties has been primarily residential in nature.
- b. The properties have been constrained by a "non-conforming" status for more than forty years, since the adoption of the 1969 Zoning Atlas.
- c. The potential neighborhood business use would be problematic given the lack of off-street parking that could be provided on the subject property without accessing residential parking through the Ballard-Griffith Towers parking lot.

Ms. Wade then said that the requested High Rise Apartment (R-5) zone is appropriate for 165-167 Jefferson Street, for the following reasons:

- a. The proposed R-5 zone is compatible with the Ballard-Griffith Towers to the rear and the R-4 zoning across Tower Plaza to the east. In addition, the existing structure to the west of the site at 159-161 Jefferson has been converted to a multi-family residential use that is very similar to the density of the proposed use of the subject properties.
- b. The R-5 zone does permit a limited amount of commercial use as a conditional use considered by the Board of Adjustment, which could support the *Masterplan's* recommendation for neighborhood business use in the area.

Ms. Wade also said that the Planned Neighborhood Residential (R-3) zoning is preferred for 163 Jefferson Street, for the following reasons:

- a. The R-3 zone permits the requested single-family residential use, and has special provisions to encourage infill and redevelopment on small lots inside the defined Infill and Redevelopment Area.

- b. The R-3 zone for this property would allow a conforming single-family residential use, while the alternative option of withdrawing this property from the application would require the petitioner to seek Board of Adjustment approval to change from one non-conforming use to another.

In conclusion, Ms. Wade stated that the residential zoning for the subject properties will permit a higher residential density use, which is supportive of the Principles of the Downtown Lexington Masterplan. In addition, this request utilizes the vacant land and maintains the mixed land use and development scale, which is compatible with the area along Jefferson Street. She said that the Staff is recommending approval of R-5 zoning for 165-167 Jefferson Street and R-3 zoning for 163 Jefferson Street, for the reasons provided on the staff report. She noted that there are several variances being requested for these properties that will be presented by Mr. Emmons.

Planning Commission Questions – Mr. Cravens asked if the existing house is listed on the National Historic Registry. Ms. Wade said that the existing lot is part of a historic district that is listed on the National Historic Registry, but the house is not historic. Mr. Cravens then asked if that particular building is registered on the historic list. Ms. Wade said that this is not a historic site, but it is part of the district. She then said that the applicant is proposing to maintain the existing building and refurbish the structure to the original character of the area.

Ms. Copeland asked if the vacant lot is being proposed for R-5 zoning, and how many stories are allowed in that zone. Ms. Wade said that the number of stories is determined by the 4:1 height-to-yard ratio, which means the number of stories is limited to the size of the property. For this request the applicant is requesting a height of 30 feet.

Ms. Roche-Phillips asked if the staff has contacted the appropriate personnel at the US Park Service to get their thoughts on rezoning these properties and regarding the potential development of a high rise apartment building since this property is listed on the National Historic District. Ms. Wade replied in the negative.

Mr. Owens clarified that there is a rear addition on the existing house, which will be removed. Ms. Wade referred the question to the applicant.

Ms. Roche-Phillips asked about the maximum density allowed in the R-5 zone. Ms. Wade said that there is not a maximum number of dwelling units; the allowed density is based upon the layout of the development and sit constraints.

Mr. Owens said that the applicant is proposing a maximum height of 30 feet, and asked if this is based upon the height-to-yard ratio. Ms. Wade replied no, and said that the applicant is requesting a variance to reduce the side yard. The way the ordinance reads, the rear and side yards must be used to create the height of the building. She said that the applicant is requesting a variance from 10 feet to 0.5 feet; and using the 4:1 height-to-yard ratio, the structure would only be allowed to be 2 feet tall, which is not realistic.

Zoning Development Plan Presentation – Mr. Martin directed the Commission's attention to a rendering of the preliminary development plan for the properties located at 163, 165 and 167 Jefferson Street. He oriented the Commission to the surrounding area, and said that the subject property is located at the corner of Jefferson Street and Tower Plaza. He noted the location of the existing structure on the subject property and the vacant lot, as well as the proposed parking to the rear.

Mr. Martin said that the lot size for 163 Jefferson Street is approximately 2,000 square feet, and the vacant lot at 165 and 167 Jefferson Street is just a little over 5,000 square feet. He noted that there will be pedestrian access from Jefferson Street, as well as a side access along Tower Plaza.

Mr. Martin stated that when a zoning development plan is submitted, it is reviewed and evaluated as if the zoning is already in place. He said that these lots are very small, and the applicant has proposed to refurbish the existing building at 163 Jefferson Street. He then said that this renovation will decrease the size of the existing building to less than 2,000 square feet. The applicant is also proposing to build a new structure on the vacant lot, which is located at 165 and 167 Jefferson Street. This new structure will be approximately 3,000 square feet in size.

Mr. Martin said that the Subdivision Committee reviewed this request at their August 5, 2010, meeting, and recommended postponement due to questions regarding the plan's compliance with the R-5 zoning regulations (i.e., lot coverage and building setbacks). Since that time, the applicant has submitted a consolidation plat for these two properties, which reconfigured the lot boundaries. It addressed the lot coverage issue that was inhibiting the proposed redevelopment of the property, which was the genesis of condition #14 listed on the agenda. The staff can now recommend approval of this preliminary development plan, subject to the following revised conditions:

1. Provided the Urban County Council rezones the property R-5; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
4. Building Inspection's approval of landscaping and landscape buffers.
5. Urban Forester's approval of tree inventory map.

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6. Denote: No building permits shall be issued unless and until a final development plan is approved by the Planning Commission.
7. Delete note #11.
8. Denote floor area ratio in site statistics for each lot.
9. Denote Final Record Plat designation.
10. Denote the shared lot line information per the Final Record Plat.
11. Addition of sidewalk from parking area to the structures and from structures to Jefferson Street.
12. Correct plan title.
13. Provided Denote the Planning Commission grants approval of the dimensional variances requested, or revise the building layout accordingly.
14. ~~Discuss timing of alteration to lot lines to meet lot coverage limitation for each lot.~~

In conclusion, Mr. Martin said that the applicant has also requested several variances; and since this is a preliminary development plan, there will be a final development plan that will come before the Commission for approval at a later time.

Planning Commission Questions – Ms. Copeland asked if 165-167 Jefferson Street will be 2,000 square feet. Mr. Martin said that the structure will be over 3,000 square feet in size. Ms. Copeland then asked if each apartment unit will be 800 square feet in size. Mr. Martin said that these will be one-bedroom units and each floor plan may vary, depending on their design. Ms. Copeland confirmed that there would need to be one parking space per apartment unit, and asked if this request will result in a need to borrow parking spaces from the Ballard-Griffin Towers. Mr. Martin said that the applicant will need a variance to Article 7-6(b) of the Zoning Ordinance to reduce the number of off-street parking spaces, but does not propose to borrow any parking from off-site locations.

Mr. Holmes asked if the two lots have been consolidated. Mr. Martin said that the subject property is still two independent lots, as the consolidation plat had only transferred square footage and adjusted the lot lines for these lots.

Variance Presentation – Mr. Emmons directed the Commission's attention to the Revised Staff Report, and stated that even with the amended application from the R-5 zone to R-3 zone, the applicant still needs the requested variances. The difference between the original variance request and the amended variance request is that the amount of space/distance has decreased.

Mr. Emmons then directed the Commission's attention to a PowerPoint presentation, and noted that the University of Kentucky Architecture Department, who was in the process of studying this area prior to this zone change request, had contributed to these graphics. He stated that the applicant is requesting several variances for this property, the first variance being to the front yard setback. He said that the R-5 zone requires the front yard setback to be 20 feet, and the applicant is requesting a decrease to 9 feet for both properties, which will be compatible with the surrounding properties along Jefferson Street.

Mr. Emmons then stated that the applicant is requesting a decrease to the side yard setback from 3 feet to 0.5 feet for the existing structure (163 Jefferson Street) and a decrease from 10 feet to 5 feet for the vacant lot (165 and 167 Jefferson Street). He said that by granting this variance, it will essentially make the final development plan the controlling factor of the final building placement, which is appropriate for this proposal. He noted that the applicant is also requesting a decrease to the side street side yard along Tower Plaza from 20 feet to 0.5 feet.

Mr. Emmons stated that the applicant has requested a height variance up to a maximum of 30 feet. Since the R-5 zone does not have an absolute height limit, the height of the structures is determined by the height-to-yard ratio of 4:1. The height variance is needed because if the Commission grants the 0.5 foot setback, the maximum allowable height for the proposed building would be 2 feet, which is not livable space. He then said that the B-1 zone allows the height of the building to be 25 feet for non-residential use and 35 feet for business/residential mixed uses. The requested 30-foot variance is compatible with the properties in the area.

Mr. Emmons then stated that there is also a request for a landscape variance for the southwestern portion of 163 Jefferson Street. He said that the Landscape Review Committee had reviewed this request and suggested that a solid screen wall be provided from the end of the existing wall to the rear wall of the house. This would essentially close off the open gap and create a solid screen along the southwestern side of the property.

Mr. Emmons said that the last variance for this zone change is a reduction to the required parking. He noted that the original variance request was a reduction from 9 parking spaces to 6 parking spaces; however, with this amendment the applicant is now requesting a decrease from 7 parking spaces to 6 spaces. He said that the applicant will not be utilizing the parking area on the Ballard-Griffith Towers property, but they are proposing to expand their parking area onto the subject property to accommodate the required parking that will be needed to develop this site. He said that the parking requirement for an R-5 zone is 1.5 parking spaces per dwelling unit, which results in 6 parking spaces for the four-plex and 1 parking space for the proposed single family residence in the R-3 zone.

As such, the staff is recommending approval of the requested variances, for the following reasons:

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1. Granting the requested variances should not adversely affect the public health, safety or welfare, nor alter the character of the general vicinity, as one of the two buildings involved will be rehabilitated and reduced in size. The other will observe similar setbacks to those in the area.
2. Approval of these variances will not result in an unreasonable circumvention of the Zoning Ordinance. The purpose of the ordinances related to infill and redevelopment are to encourage rehabilitation and compatible new development. In this case, the rezoning with the requested variances is the best way to achieve this goal for the proposed project.
3. The special circumstance that applies to the subject properties is the extremely small size of these existing infill lots.
4. Strict application of the requirements of the Zoning Ordinance would create an unnecessary hardship to the applicant. It would make the existing structure non-conforming, thereby making its rehabilitation more restrictive. It would also cause the new building on the vacant lot to be out of character with the surrounding neighborhood, which would contradict the applicant's desire to build a compatible structure.
5. The circumstances surrounding this request are not the result of actions taken by the applicant since the adoption of the Zoning Ordinance. In fact, this area of town was developed long before the city's first Zoning Ordinance was enacted, while the subject site is constrained by the existing building, the relatively small size of the lots, and the existence of two front yards.

Mr. Emmons said that this recommendation of approval is made subject to the following revised conditions:

- a. Provided the Urban County Council rezones the property R-3 and R-5; otherwise, any Commission action of approval of this variance is null and void.
- b. Should the property be rezoned, it shall be redeveloped in accordance with the approved Zoning Development Plan, or as amended by a future Development Plan approved by the Commission, or as a Minor Amendment permitted under Article 21-7 of the Zoning Ordinance.
- c. A note shall be placed on the Zoning Development Plan indicating the variances that the Planning Commission has approved for this property (under Article 6-4(c) of the Zoning Ordinance).
- d. Denote: All necessary permits shall be obtained from the Division of Building Inspection prior to occupancy.
- e. Denote: Building height shall be restricted to 30 feet.
- f. Denote: The minimum off-street parking requirement shall be six spaces.
- g. Denote: The existing wall on the southwest property line shall remain, or a replacement wall of similar size shall be provided to create a solid screen along that boundary.
- h. Denote: A new solid screen shall be installed on the southwest property line between the existing house and the existing wall to create a solid screen. Should the house be removed for any reason, the Planning Commission shall review an appropriate screen along the southwest property line as a part of the development plan approval process.

In conclusion, Mr. Emmons said that the staff believes that this zone change, along with the requested variances, does make this proposal compatible with the surrounding developments on Jefferson Street, as well as being compatible with the overall goals of the infill and redevelopment.

Planning Commission Questions – Ms. Copeland asked if the study provided by the University of Kentucky Architecture Department contained specific building height information. Mr. Emmons replied that the staff does not have that data; but on average the height of structures is 30 feet, with the exception of the Ballard-Griffith Towers.

Mr. Owens thanked the students from the University of Kentucky Architecture Department for their help in providing the visual aid that went along with the staffs' presentation.

Ms. Roche-Phillips said that, in reviewing the ZOMAR plat, it seems that there are three lots. Mr. Emmons said that there are two lots on the subject site that is being reviewed for the zone change. Ms. Roche-Phillips asked for clarification of the "L" shaped lot being shown on the rendering. Mr. Emmons said that the "L" shaped lot is the right-of-way along Tower Plaza.

Petitioner's Presentation – Darby Turner, attorney, who was present on behalf of the petitioner, complimented the staff on their presentation of this zone change.

Mr. Turner said that the Ballard-Griffith Towers is a high-rise apartment unit for low-income elderly residents, and is managed by the Lexington-Fayette County Housing Authority. He noted that the right-of-way of Tower Plaza ends at the Ballard-Griffith Towers property, and this zone change will help clean up the entrance into the Ballard-Griffin Tower property, as well as the streetscape along Jefferson Street.

Mr. Turner stated that this property is within a National Historic District, but the house itself is not individually listed on the registry. He said that they intend to demolish the rear addition on 163 Jefferson Street, and restore the house to its original character, while providing modern amenities. He then said that without established regulations for the Infill and Redevelopment areas, these variances are needed to develop this property.

In conclusion, Mr. Turner said that they are in agreement with the staff's recommendations and requested approval.

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Planning Commission Questions – Mr. Owens asked what the intentions are for 163 Jefferson Street. Mr. Turner said that 163 Jefferson Street will be renovated to a single family residential unit and the original character of the building will be restored. He said that this project will also be certified in the Leadership in Energy & Environmental Design (LEED) program. Mr. Owens asked if the rear addition would be removed. Mr. Turner replied affirmatively.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request. William Johnston, who resides at 645 West Short Street, was present. He noted that he is the President of the Historic Western Suburb Neighborhood Association (HWSNA), he is a property owner of a nearby residence, and he has restored several properties within the area. At this time, Mr. Johnston submitted and read the following letter of support into the record. (A copy of the letter is attached as an appendix to these minutes).

Dear Planning Commission Members:

This letter is in support of the zone change request by the Lexington Home Ownership Commission, Inc. for the properties at 163 and 165 Jefferson Street.

It is our understanding that the new zone requested for 163 Jefferson Street is R-3, and the new zone request for 165 Jefferson is R-5. Our support is contingent on the following two conditions:

- 1. The building to be constructed on 165 Jefferson be no taller than 2 stories.*
- 2. The building on 163 Jefferson be restored to a single family residence.*

We also request to be placed on the notification list for any changes to the submitted development plans.

This endorsement of these zone changes by our neighborhood association is not intended to be an endorsement of other zone changes in the future away from B-1. While our definite preference would be to see development in this block of Jefferson Street follow the current B-1 zone guidelines, we support the current zone change request only to facilitate this specific situation given the mandated mission of the property owner, and to preserve a one hundred-year-old-or-older house in this historic neighborhood.

Planning Commission Questions – Ms. Roche-Phillips asked if it is protocol for the local Historic Preservation Office (HPO) to contact the US Park Service, which regulates the National Register District. Mr. Sallee said that it is standard for the property owners in local historic districts to be contacted by the HPO, but he is uncertain as to their protocol for a National Register District. He noted that the subject property is within a National Register District, but not a local historic district. Mr. Turner added that Sherman/Carter/Barnhart has been in contact with the Division of Historic Preservation about this property.

Ms. Copeland asked if the existing house will be upgraded, but not look historic. Mr. Turner said that their intention is to restore the house back to its original character.

Audience Comment – Elloree Findley, who resides at 623 West Short Street, was present. She said that there is a concern with regards to parking in the area, considering that a one-bedroom apartment will most likely have two vehicles. She said that the off-street parking in the general area is not sufficient, and asked where those vehicles will park if this is approved.

Zoning Action - A motion was made by Mr. Owens, seconded by Mr. Brewer, and carried 10-0 to approve MARV 2010-6 (AMD), for the reasons provided by staff at this hearing.

Variance Action - A motion was made by Mr. Owens, seconded by Mr. Brewer, and carried 10-0 to approve the requested variances, for the reasons provided by staff, subject to the revised conditions as listed in the Revised Staff Report.

Zoning Development Plan Action - A motion was made by Mr. Owens, seconded by Mr. Brewer, and carried 10-0 (Roche-Phillips abstained) to approve ZDP 2010-43, subject to the revised conditions listed by the staff.

VI. COMMISSION ITEMS

Note: Ms. Copeland noted that she lives in the Montclair neighborhood; therefore, she would need to recuse herself from this portion of hearing.

- A. MONTCLAIR NEIGHBORHOOD ZONE CHANGE INITIATION REQUEST** – petition request received from residents of the Montclair neighborhood for Planning Commission initiation of an ND-1 overlay zone.

The Zoning Committee made no recommendation due to lack of quorum.

Staff Presentation - Ms. Wade briefly oriented the Commission to a map of the Montclair neighborhood, and noted that it is situated between Tates Creek Road and the University of Kentucky campus, and between Cooper Drive and Montclair Drive.

Ms. Wade stated that in June, 2010, the Montclair Neighborhood Association had submitted a request that the Planning Commission initiate an ND-1 overlay zone for this area. She said that along with their request, they had submitted proposed language for the de-

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sign standards that they would like implemented. She said that the staff briefly looked over their proposed language and made some minor changes, which were shown on the handout. She noted that this information along with the postcard notification was sent to the neighborhood residents informing them of the proposed ND-1 initiation request.

Ms. Wade then stated that the neighborhood has proposed eleven ND-1 restrictions; and since this request has not yet been initiated, the staff has not made any substantive recommendation. If the Commission chooses to initiate this request, the staff would review the proposed language in detail and make their recommendation closer to the time of the requisite public hearing.

Ms. Wade said that out of 179 properties in this neighborhood, the staff had received 102 postcards (57 percent response rate). Directing the Commission's attention to an aerial photo of the Montclair neighborhood, she said that out of the 102 property owners that responded, 70.6 percent were in favor of the proposed ND-1 overlay, 26.5 percent were in opposition, and 3.0 percent expressed no opinion.

In conclusion, Ms. Wade noted that several residents of the Montclair Neighborhood were present, should the Commission have any questions or concerns about this initiation request.

Planning Commission Questions – Referring to the neighborhood map, Mr. Owens asked if the properties noted in green are in favor of this request. Ms. Wade replied affirmatively, noting that the properties noted in red are in opposition and the properties noted in yellow had no opinion.

Mr. Cravens asked how this request would relate to the recently approved "University of Kentucky" text amendment. Ms. Wade said that the recently approved text amendment will regulate the use and the number of occupants within a single family dwelling unit, whereas in the ND-1 overlay would regulate the style and look of the building on all properties in that neighborhood. Mr. Cravens asked for clarification to #3a listed in the Montclair Neighborhood's proposed ND-1 language. Ms. Wade referred that question to the Montclair neighborhood representative present.

Mr. Owens said that it was previously mentioned that the staff had changed the language of the design standards. Ms. Wade said that the original intent and content is still intact the staff only made minor changes.

Mr. Brewer asked for clarification of the properties noted in red on the map. Ms. Wade said that the properties in red are opposed to the ND-1 overlay zone at this time; the properties in yellow have no opinion and the properties not shaded in one of those colors provided no response.

Mr. Cravens asked if it would create non-conformities if this request was granted. Ms. Wade indicated that it is possible, but at this time the staff cannot make an informed statement. She did indicate that 702 Cooper Drive has a flat roof, which is in conflict with the roof lines and shape language on the proposed design standards. Mr. Cravens asked if the properties that would be non-conforming would be grandfathered in. Ms. Wade replied affirmatively.

Mr. Holmes asked, if repairs were being made to an existing house, if those repairs would have to meet the proposed design standards or if they would be grandfathered in. Ms. Wade said that, in the case of 702 Cooper Drive, it has a flat roof; and should the property owner need to make repairs, they would need to match the existing roof pitch. Mr. Holmes then asked if a house were to replace vinyl-clad windows if that property owner would be able to use the same material. Ms. Wade said that the proposed language requested for this ND-1 overlay by the Montclair Neighborhood Association would not allow vinyl on the exterior portions of structures. Mr. Holmes asked whether or not the existing material on the house would be grandfathered in, or incorporated into the proposed language. Ms. Boland said that replacing what already exists on a structure would be allowed; but if wooden windows were replaced with vinyl windows, that would not be permitted. If those windows were replaced with the same material, that would be permitted. She then said that if a property owner were to propose new construction, they would need to follow the adopted design standards in whole.

Neighborhood Representation – Debra Tatum, President of the Montclair Neighborhood Association, stated that the neighborhood association was reactivated due to what is happening in the surrounding area. She said that they do not want their neighborhood turning out like Elizabeth Street. The Montclair neighborhood is a family-oriented area, and they want to keep it that way.

Stan Harvey, who resides at 1229 Scoville Road, was present. He noted that the process of their ND-1 overlay began in 2007, and they have spoken with the staff from the Historic Preservation and the Division of Planning concerning their options in preserving this area. He then said that they have provided the staff documentation of their public meetings, property surveys, design standards, restrictions and so forth. The eleven design standards previously submitted to the staff were derived from a strong consensus of the Montclair neighborhood residents. He said that they have also provided a detailed description of each property within the Montclair neighborhood. He noted that this ND-1 initiation will create non-conforming properties throughout the neighborhood, but the language provided is geared toward new construction or significant additions to an existing structure. Mr. Harvey noted that the 4-foot fence restriction previously mentioned was placed in their standards to help provide pedestrian safety in the fronts of these properties.

Michael Hooper was present representing Victoria Graff. He noted that they both live at 1234 Scoville Drive. He said that they understand the intent of the restrictions, but it seems they are being placed on the neighborhood after the fact. He then said that they

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understand that these standards are there to help preserve the character of the area, and they are geared toward new construction; but at this point more discussion needs to take place, as oppose to imposing restrictions upon all of the neighborhood residents. Mr. Hooper said that the Montclair neighborhood has a variety of houses within the area, and some are in need of repairs; but he does not see how these restrictions will help. He suggested that the Planning Commission review the restrictions for their intent and the nature of each restriction before imposing them on the Montclair residents.

Planning Commission Questions – Ms. Roche-Phillips asked if there will be a detailed study of the Montclair Neighborhood provided to the Commission before the ND-1 request is initiated. Ms. Wade said that the ND-1 process is led by the requesting neighborhood. She said that each initiation request is different from the previous one; and with the Montclair neighborhood, they had provided graphic illustrations, as well as provided a property-by-property survey. Ms. Wade noted that the Planning Commission could request a detailed narrative from the Montclair neighborhood, as well as a brief summary of why they are requesting each restriction. Ms. Tatum said that since 2007, they have made every attempt to contact all the neighbors; and this proposal is the summary of the neighborhood input.

Mr. Cravens said that he supports the ND-1 initiation, but he is not supportive of some of the restrictions being requested, such as eliminating vinyl.

Mr. Wilson asked who will enforce these standards, what “significant changes” means. He also asked who will determine those “significant changes.” Mr. King said that if and when ND-1 restrictions are put in place, the enforcement will take place when a building permit is requested from Building Inspection. He said that if the change is maintenance to the existing structure, then the grandfather clause applies; but if it involves new construction, the Division of Building Inspection will enforce the ND-1 design standards. Ms. Wade explained that “significant” means any new addition that requires a building permit, which would then trigger the restrictions being imposed.

Mr. Paulsen said that the process of a ND-1 overlay zone is led by the neighborhood, and asked if the Planning Commission can revise those proposed restrictions. Ms. Wade replied affirmatively, and said that as part of the process, a neighborhood association will meet with the Division of Planning and the Historic Preservation staff to discuss the prospect of the ND-1 and H-1 overlay zone. She then said that the staff lays out the pros and cons of each option. After that time, the neighborhood will usually hold neighborhood meeting about the proposal, and a representative from the City will typically be present to provide any further clarification. If approved by the Commission, the ND-1 restrictions are imposed as conditional zoning restrictions, which are then enforced through the Division of Building Inspection. As for an H-1 overlay zone, an applicant will need to submit a proposal to a Design Review Board, who will review the H-1 Design Guidelines for that particular request.

Ms. Wade said that a requesting neighborhood will conduct their own detailed study, going from structure to structure documenting and deciding how detailed they want the guidelines to be. This, in turn, will determine how restrictive the standards are. For this particular neighborhood, they wanted more control over the appearance of the houses, which resulted in more design standards. Once the neighborhood has decided on the restrictions, they submit those to the staff, and ask the Commission to initiate the ND-1 overlay. When the Planning Commission approves the initiation, the staff will take the submitted documentation, will review each of the restrictions individually, and, if necessary, will recommend changes to the Commission regarding the language. She said that the Planning Commission can make changes to the language, as well. Another change that can be made is to the geographic area itself can be modified. She then said that once the Commission makes their recommendations, the staff will send the final report to the Urban County Council, who will then determine the final action.

Mr. Brewer said that 70 percent of the neighborhood is recommending that this be done; therefore, he is in favor of moving this initiation forward.

Action: A motion was made by Mr. Brewer to initiate the ND-1 overlay zoning for the Montclair neighborhood, as requested.

Discussion of Motion – Mr. Holmes said that he supports the ND-1 concept, but he is concerned with any restrictive design standards and what economic hardship could occur on someone who cannot make the necessary changes or improvements. He said that as this request proceeds, the Planning Commission should be cautious with their decision.

Mr. Cravens asked if there are any deed restrictions existing, to which Ms. Wade replied negatively. Mr. Cravens noted that he is in agreement with Mr. Holmes, and warned the neighborhood to be careful as to what you wish for.

Ms. Roche-Phillips requested a detailed narrative of the Montclair Neighborhood proposal to include the age of these lots, the year the structures were built, and so forth. She said that this should also show whether or not there are deed restrictions, and it will allow the Planning Commission to have a greater understanding in order to make an informed decision on the proposed guidelines.

Ms. Beatty asked for clarification to the percentage of supporters versus the opposition to this request. Ms. Wade said that out of 179 properties, 102 properties responded to the postcard mailing. She then said that of the 102 responses received by staff, 70.6 percent were in support; 26.5 percent were in opposition; 2.9 percent had no opinion.

The motion was seconded by Mr. Paulsen, and carried 9-0 (Copeland recused).

Note: Ms. Copeland returned to the meeting at this time.

B. WALL STREET JOURNAL ARTICLE

Ms. Copeland said that the Wall Street Journal (August 21 & 22, 2010) had named Lexington, Kentucky as one of the best cities for livability. She said that a firm in Cary, North Carolina had analyzed the real estate trends for lenders, builders and investors and compiled their first "Investor Suitability Report." The information in the report came from the economic data for approximately 315 United States Markets with a population exceeding 200,000. She said that Lexington, Kentucky is ranked as one of the top 10 best places to invest in the real estate market. She then said that according to the article, the Lexington, Kentucky real estate market has begun to stabilize, there is a dependable economy in the city and it is a good place for home ownership. Ms. Copeland said that the planning staff and the City's fathers, among others, are responsible for putting Lexington, Kentucky on this nationwide list.

Ms. Richardson said that Lexington, Kentucky was also listed recently in Forbes Magazine as one of the best places to live, to raise a family and for young professionals to reside.

VII. STAFF ITEMS**A. Planning Services Activity Report**

- During the month of July, the Planning Services staff processed 3 zoning map amendments and one text amendment to the Zoning Ordinance. Also, 13 Board of Adjustment appeals were processed, 11 of which were for filed the Board's July meeting. The 11 new written staff reports for that July meeting were forwarded to those applicants at least five working days in advance of the BOA public hearing.

In May, 40 subdivision and development plan items were processed by Planning Services staff. Of those, 10 were minor plans and 7 of those were reviewed within two working days of their filing. In July, 14 major plans were submitted for certification--which were all reviewed for compliance with all Planning Commission conditions of approval within five working days of its submission to the staff. These plans required an additional 24 follow-up contacts made by Planning Services staff with the plan preparers, all of which were made within two days of the receipt of revised submissions. The staff also provided floodplain assistance for 10 local property inquiries in May.

Processing of the above items included attendance and/or preparation of materials and presentations for the following: Technical, Subdivision and Zoning Committee meetings, one Planning Commission work session, one Planning Commission public hearing, one Planning Commission public meeting, and one Board of Adjustment public hearing. In addition, the staff held 2 pre-application conferences for rezoning applications, and several other pre-application meetings for subdivision, development plan and Board of Adjustment items.

Also during July, there were 17 updates made to the Registered Neighborhood Association data base, and Planning Services staff assisted 37 unscheduled "walk-in" visitors to the office. Those office visitors were placed with a professional staff member in an average of 1.89 minutes. Much of the remainder of the staff's time was spent answering numerous telephone inquiries from people concerning zoning regulations, subdivision plans, Board of Adjustment appeals, development plans, floodplains and related items.

- Senior Infill & Redevelopment Planner Jimmy Emmons attended a meeting on proposed East End ND-1 overlay zoning with Planning Manager Jim Duncan, Administrative officer, Barbara Rackers, Senior Planner Sharon Buford and the staff of the Downtown Development Authority on the evening of July 28. Along with a core group of residents, all discussed the design standards that are proposed for that area.
- During the week of July 26th through July 30th, Senior Planner Tom Martin and Administrative Specialist Denice Bullock prepared and mailed "Repetitive Loss" letters to the property owners in and near special flood hazard areas (defined by the Federal Emergency Management Agency) in Lexington-Fayette County. Letters such as these are mailed out every year, as part of our public outreach efforts.
- Tom Martin, Jimmy Emmons and Senior Planner Jim Marx continued to work with other planners on a project to set standards for New Development Character & Design in Lexington-Fayette County--meeting three times in July. Their current focus is on density adjustments that may be needed to support a more viable Community Center (Expansion Area) concept, establishing more focal points within new neighborhoods, possible needs pertaining to the number and accessibility of parks, means to achieve more architectural diversity and innovative design features pertaining to garages and driveways.
- Senior Planner Traci Wade met with Tree Board Chair Karen Angelucci on July 7th regarding upcoming Zoning Ordinance text amendments. Traci has been assisting the Tree Board for the past year in formulating their recommendations.

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- Tom Martin prepared a sizeable packet of information for the Floodplain Appeals Committee, and met with the Distillery District's attorney prior to the recent meeting of that group. It was only the third meeting of that group, which was established by Article 19 of the Zoning Ordinance.
- Traci Wade attended a team meeting for the Chevy Chase (Fontaine, High Street and Euclid) Intersection Re-design on July 14th in the Council Office. She provided input for the consulting team regarding street improvements and possible impacts to adjacent properties and their respective development plans.
- In July, Planning Intern Mark Leach completed his volunteer internship. Mark is a student working on his Masters Degree in Urban Planning at Ball State University in Muncie, Indiana. This summer, Mark helped update the Underutilized Property Survey information, updated local Brownfield information, and worked on other Infill & Redevelopment initiatives.
- In July, Traci Wade continued working with Brandi Berryman in the office of the Downtown Development Authority (DDA) to create a downtown signage handbook. The handbook, when completed, will reflect recent ordinance changes and will provide business owners a graphic and written summary of different signage types and allowable sizes and heights.
- On July 12, Tom Martin, Planning Manager Bill Sallee and Director Chris King participated in a conference call with representatives of the Army Corps of Engineers, the Kentucky Division of Water, and civil engineers for a property owner on Leestown Road, near the proposed Citation Boulevard. Planning Services staff members have met with the property owner's representatives in the field and in the office to discuss options in addressing a stream issue on this property.

B. Long Range Planning Activity Report

East End Small Area Plan Implementation – Staff from the Division of Planning and the Lexington Downtown Development Authority accompanied Councilmember Andrea James to a meeting with representatives of the William Wells Brown Neighborhood Association. The purpose of the meeting was to begin discussions about how buildings and the design of a neighborhood contribute to neighborhood character. The residents expressed their thoughts on character-defining features of the East End and how a set of formal design standards could ensure the protection and continuation of those features. The staff is scheduled to meet again with the neighborhood association in September.

Complete Streets – Staff assisted the consulting team as they continued their work for the Complete Streets project. The Complete Streets project will result in a policy manual and proposed text amendments that will provide standards for development and redevelopment of the transportation network throughout the community.

Green work, Greenways and Bike/Ped – Staff attended meetings of the Greenway Coordinating Committee and the Partnership for a Green Community and continued to update the LFUCG trail and greenway properties databases and maps.

Development Review – Staff conducted a variety of development review duties and meetings, conducted field work, and coordinated greenway and greenspace development issues.

General Work Activities – Staff prepared for and attended the Technical Review Committee. Staff answered questions about land use and other comprehensive plan issues as well as neighborhood association issues. Using GIS, Census data, and PCensus software, staff created maps and data sets for the Urban County Council, other LFUCG Departments, and agencies and officials outside the government. Staff also attended LFUCG-sponsored training sessions, including PeopleSoft and staff development training.

C. Transportation Planning Activity Report

1.1 Surveillance

- Staff attended monthly Blue Grass Airport Board meeting and TAC new executive building opening.
- The MPO staff continues to monitor the *Jessamine Journal* and the Jessamine County Comprehensive Plan to track on-going land development and consults with county officials on a regular basis to keep abreast of development activities. Staff followed up with the MPO PC on a speed reduction request for US 27.
- Staff attended the statewide planning meeting in Frankfort

1.2 Title VI/ADA

- Staff worked on ADA Transition Plan for Lexington Fayette Urban County Government, including gathering information regarding ADA work that has been done and/or is in process.
- Staff participated in downtown sidewalk obstacle survey to identify accessibility barriers.

1.3 Participation Process

- MPO Website Development – website was redeveloped and launched this month with a completely new design and a number of new features. In July, the MPO website had 202 unique visitors; 468 visits; and 2,185 page views.
- The MPO's Twitter site increased its followers to 367 at the end of July up from 344 at the end of June.

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- The MPO's Facebook sites had 322 friends and 121 fans at the end of July.
- The Lexington MPO Public Participation/Involvement Access Database continues to be updated. The database now includes over 850 records.

1.4 Staff Development

- Staff continues to monitor the latest information from planning, engineering, and traffic engineering publications.
- Staff attended website training for MPO's new website.

2.1 Congestion Management Process (CMP)

- Staff continued to work on the Congestion Management Process (CMP) Overview document based on the comments and suggestions received from MPO, LFUCG, and KYTC staff.
- Staff continued working with the KYTC staff to implement a state-wide congestion management program.
- Staff worked on the elected CMC Chair person qualification issues with the LFUCG Department of Law.

2.2 Transportation Plan Update

- Travel Demand Model – Staff modeler continues to provide travel demand forecasts upon request and interprets modeling forecast results.
- MTP 2035 Long Range Projects reviewed for future UPL ranking.

2.3 Air Quality Activities

- Staff attended the monthly Lexington Climate Action Plan meeting.
- Staff participated in two Kentucky Climate Action Plan conference calls and participated in drafting guidance language for several policy areas.
- Staff organized a meeting of the transportation sub-team of the LFUCG Climate Action Plan effort.
- Staff continued daily ozone forecasting and issued two (2) air quality advisory alerts.
- Staff participated in an air quality conference call.
- Staff participated in a MOVES user group teleconference.

2.4 Intelligent Transportation Systems (ITS)

- The MPO staff continued to monitor ITS topics and continued coordination with the LFUCG Division of Traffic Engineering, KYTC, and FHWA.

3.1 Transportation/Traffic and Land Use Impact Analysis

- The MPO staff continued to monitor transportation and land use topics, and continued coordination with the LFUCG Division of Planning: Planning Services Staff, and Traffic Engineering when necessary.
- Reviewed Subdivision/Zoning Development Plans and Board of Adjustment information, and participated in review meetings.
- Monitor all Fayette and Jessamine planning activities to stay abreast with on-going transportation, traffic, land-use, and economic-development planning to the greatest extent possible.
- Traffic counts and roadway functional classification information were provided to several development professionals, private consultants, realtors, and to citizens in July.

3.2 Multimodal / Transportation Enhancement Planning / Intermodal Planning

- Share the Road Campaign – Staff continued work on the Share the Road Campaign through July. The campaign includes billboards, bus ads, bike safety videos and informational brochures being distributed by UK and LFUCG. A website with more detail www.bikelexington.com.
- South Limestone Multimodal Transportation Study –The final document is nearing completion. Staff worked with UK to being implementing a bike lane project from Scott St to Ave of Champions.
- Community Bike Sharing Program – Staff is working with the Department of Environmental Quality and Downtown Lexington Corporation to implement the project. Major tasks underway include environmental clearance for the bike stations and issuing an RFP for the bike sharing equipment.
- Events – Staff began coordinating the annual Second Sunday event which will be held in conjunction with Spotlight Lexington later this year on 10-10-10.
- Complete Streets – Staff assisted with review and coordination for the Complete Streets project.

3.3 Transit Planning

- Staff working on art shelter sites to be implemented in 2010.

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- Staff working with Dennis Anderson and Tom Blues to establish an art shelter site next to Anderson Communities as a CMAQ matching project. Establishing a design contest for the chosen site. Money has been secured for design contest.
- Working with Carol Schoaff to get Kevin Wagner up to speed with encroachment permitting. Investigating issues holding up encroachment process. No permits have been issued from LFUCG in 2010 so far.
- Staff attended regular LexTran Board meeting.
- Attended Downtown Trolley Steering Committee to give feedback on Trolley so far.
- Staff participating in a planning group study of urban corridors relating to visual enhancement.
- Staff working with LexTran on Title VI mapping compiling data. Attended Statewide Transportation Meeting to seek information pertaining to Title VI documentation.
- Staff participated in a Downtown Accessibility Study Walk (survey) with Latitudes.
- Researching Park and Ride incentives for Planning Commission. Text amendment for Design Guidelines being looked at by Planning Commission now.

3.4 Mobility Office Activities

- Regular mobility office activities continued this month.
- Received 28 phone calls this month: 4 regional transits, 15 vanpool, 6 carpools, 2 paratransits and 3 other government services.
- Continued radio spots for the mobility marketing campaign.
- Worked on Mobility Office promotion at the Legends and radio spots for an event to be held on August 13th at Applebee's Park.

3.5 Project Forecasts

- In July, the consultant and staff worked to answer any additional questions about the data.

4.1 Administration

- Committee meeting packets were prepared and distributed for the following Transportation Planning/MPO meetings held in July: Bicycle and Pedestrian Advisory Committee (BPAC), Transportation Coordination Committee, and the Air Quality Advisory Committee (AQAC).

4.2 Transportation Improvement Programming (TIP)

- Compiled and filed copies of all KYTC STIP actions, and state and federal program management authorization forms.

4.3 Unified Planning Work Program (UPWP)

- Staff reviewed UPWP to ensure work program elements are being fulfilled, monitored, and improved for relevancy and changing Public Works needs.

VIII. AUDIENCE ITEMS

1. **LEXINGTON MALL PROPERTY (AMD #12)** - located at 2299, 2349 and 2401 Richmond Road.

Petitioner's Presentation – Darby Turner, attorney, along with Craig Avery, Southland Christian Church and Sara Tuttle, Strand Associates was present on behalf of the applicant, and he appreciated this opportunity to address the Commission. He noted that this discussion pertains to the planned acquisition and redevelopment of the Lexington Mall Property by Southland Christian Church. He said that the proposed redevelopment of Lexington Mall Property has been initiated due to a short time frame of them either opting in or opting out on the purchase of the property. He then said that they have already been gathering the necessary information needed to facilitate this development and the only item remaining is the Planning Commission's approval of an amended development plan. He noted that this item is scheduled to be reviewed at September 2nd Subdivision Committee meeting, after which it will then come before the Planning Commission at their September 9th meeting. Mr. Turner noted that the current property owner (Saul) has offered a financial incentive to his client if closing of the property were to happen earlier than originally scheduled. This is the reason for his client submitting the proposed development plan as a late filed item with the staff. He noted that they have assembled a team of professionals, who has been working diligently on this project.

Ms. Tuttle said that the staff gave an unofficial presentation of this proposal to the Technical Committee on August 25th and with the exception of the height of the proposed worship center, this development plan could have been filed as a minor amendment. Directing the Commission's attention to the rendering, which they brought to today's meeting, she illustrated the location of the existing mall structure, and explained that the former Dillard's portion of Lexington Mall will remain as is, but the remaining section of the mall will be demolished for a worship center to be built. Currently the mall section is a one story layout and the new worship center will be built as a two story building with a balcony.

Ms. Tuttle said that the existing parking area is a "sea of asphalt," and with this redevelopment they are providing more trees and greenspace area, as well as a water feature leading to Richmond Road. She then said that the circulation of the parking area will remain intact, keeping access off of New Circle Road and Woodhill Drive and keeping access off of Richmond Road. She noted that

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the nearby buildings and uses, such as the Home Depot and Perkins Restaurant will not change. The only change that will be made is to the area near the Applebee's Restaurant, and there will be a better turning radius constructed toward that mall area entrance.

In conclusion, Ms. Tuttle said that this proposal will be heard by the Subdivision Committee and then it will come before the Planning Commission for a full hearing.

Planning Commission Questions – Ms. Roche-Phillips asked if a conditional use permit will be needed. Ms. Tuttle replied no, and said that a church is a principle permitted use within this zone.

Mr. Cravens asked if there will be an additional buildings added. Ms. Tuttle said that there will be one out parcel added near Richmond Road across from Applebee's Restaurant. She noted that the car wash shown near the intersection of New Circle Road and Woodhill Drive will be slated for a future redevelopment in that area.

Ms. Roche-Phillips asked if the outparcel across from Applebee's Restaurant will be subdivided out from the remaining lot. Ms. Tuttle said that the parcel between Applebee's Restaurant and the pond is proposed as a new a development site; it is not a separate entity. She noted that this area will be reconfigured and fill added, which will require FEMA permits. Ms. Roche-Phillips asked if a federal 404 permit will be needed. Ms. Tuttle replied affirmatively, and noted that the necessary permits are in place to go forward with the required work. Mr. Avery said that the current property owner had obtained the required permits in the past and those permits will be transferred over to the Southland Christian Church. Mr. Turner said that a streambed permit is in place and the remaining permits will need to be modified to retain the pond configuration. Mr. Avery said that the current property owner had proposed to reduce the pond area, as well, but in speaking with the surrounding community, it was noted that the pond is an important part of the Richmond Road corridor; therefore, they are proposing to retain the pond. Mr. Turner clarified that the current property owner still owns and controls the car wash, the Applebee's Restaurant and Perkins Restaurant, whereas Home Depot, the former BP station and Central Bank are under separate ownership.

Ms. Copeland asked for a brief explanation about the proposed water feature. Mr. Turner said that the sidewalk will be incorporated into the water feature that will extend from the worship center to the pond along Richmond Road. Mr. Avery further explained that the water feature will be a dry streambed that is incorporated into the sidewalk.

Mr. Cravens asked if the water feature will prevent vehicles from crossing. Ms. Tuttle said that the driveway area will remain the same. Mr. Turner said that the area in front of the worship center will provide a much different view from Richmond Road than what currently exists. Mr. Avery said that from the beginning, their concept was to build something that does not look like a church and which would lure people into the building. He explained that the worship center will be providing 2,800 seats; the first floor of Dillard's will be used as a support center for nurseries, preschool and so forth; and the second floor of Dillard's will have office space, but that area has not been designed at this time.

Ms. Roche-Phillips clarified that the school will be used for Sunday school and not used as an accessory use. Mr. Avery agreed. Ms. Roche-Phillips asked if the dry streambed will be used for storm water compliance. Mr. Avery said that the water feature would be collecting some storm water, but it is more for a visual feature than anything. Mr. Turner said that this property contains one of the biggest sewer line encroachments currently within the community. He said that with the redevelopment of this property, the sewer lines can be redesigned to provide a better system for this entire area. Ms. Tuttle said that they are working with the Division Sanitary Sewers on this issue, and noted that they are required to provide a 20 percent improvement to water quality treatment on the site. Some of this percentage will be accomplished by reducing the amount of impervious surface through the added greenspace area. Ms. Roche-Phillips said that anything that can be done to improve the storm water conditions it would be welcomed.

Mr. Holmes commented that the out parcels will benefit from these improvements, as well.

Mr. King commented that there have been some public comments in the media that gave the impression the Planning Commission had control over whether or not this type of use is permitted in this area. He said that a church is considered a permitted use for this B-6P zone. With that said, the Planning Commission does have control over the development plan, but they do not have discretionary authority over whether or not this use should be a retail use or a church.

Mr. Turner thanked the Commission for taking time to listen to a brief summary of this proposal, as well as thanked the staff for their efforts in helping this go forward in a timely manner.

2. **CLOSING COMMENTS** – The Chair announced that Thursday Night Live will be kicking off the celebration of 30 days until the World Equestrian Games (WEG). She noted that there will be entertainment provided at the Cheapside Park and welcomed everyone to join the celebration.

IX. MEETING DATES FOR SEPTEMBER, 2010

Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (Phoenix Building)	September 2, 2010
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (Phoenix Building)	September 2, 2010
Subdivision Items Public Meeting, Thursday, 1:30 p.m., 2nd Floor Council Chambers	September 9, 2010

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Work Session, Thursday, 1:30 p.m., 2 nd Floor Council Chambers	September 16, 2010
Zoning Items Public Hearing , Thursday, 1:30 p.m., 2 nd Floor Council Chambers	September 23, 2010
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (Phoenix Building)	September 29, 2010

X. **ADJOURNMENT** - There being no further business, a motion was made to adjourn the meeting at 3:25 p.m.

Carolyn Richardson, Chair

Mike Owens, Secretary

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